

Telehealth Learning Series

for SUD Tx and Recovery Support Providers



Privacy Considerations for Telehealth During COVID-19

The Center of Excellence for Protected Health Information

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Telehealth During COVID-19

- Federal and State agencies are acting to facilitate the use of telehealth during the COVID-19 public health emergency
- Both OCR (HIPAA) and SAMHSA (Part 2) have issued guidance regarding privacy protections and telehealth



Key Point #1

You Can Still Take Action to Protect Client Confidential Information:

Telehealth may increase the number of people and systems with access to confidential health information. Providers should try to avoid public wi-fi, password protect their devices, and keep any confidential files secure.



Key Point #2

You Can Use Widely Available Apps to Support Service Delivery:

OCR announced that it will waive potential penalties for violations arising out of good faith use of telehealth. Providers can use widely available private facing apps such as Zoom, FaceTime, or Skype, even without a BAA in place.

We suggest also reviewing [SAMHSA's COVID-19 Guidance and Resources.](#)



Key Point #3

Making Determinations About Medical Emergencies:


Part 2's exception for medical emergencies permits the disclosure of patient identifying information without a consent form for treatment purposes when a medical emergency exists.

[SAMHSA's guidance](#) emphasized that providers can make their own determinations whether a "medical emergency" exist. Any disclosures must be documented, and providers should remember that disclosures made under this exception do not continue to have Part 2 protections.



Key Point #4

In-Person Consent is Not Needed:

- Part 2 allows e-signatures on consent forms, as long as state law permits.
 - Consents are not needed to communicate with the patient.
 - Consent is needed for disclosures of patient-identifying information and must be accompanied by a [notice prohibiting re-disclosure](#).
 - Providers should obtain consent to disclose to the telehealth service if it will have access to patient information.
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Key Point #5

Check Your State Laws:

Remember to check whether State laws or licensing requirements have additional privacy requirements for using telehealth.



Key Point #6

Key Information for Your Clients:

Remember to inform your clients that confidential communications overheard by their roommates, family or friends will generally not be protected by the federal health privacy laws.



Key Point #7

Ways Clients Can Protect Their Information:

Clients should try to avoid public wi-fi, password protect their devices, and find private space for receipt of services.



Accessing the CoE-PHI

Request TA

coephi.org/technical-assistance

Resource Library

coephi.org/resource-center

Discussing privacy protections helps the care team to provide the best possible care.



The screenshot displays the Focus:PHI website interface. At the top, the logo for Focus:PHI is shown with the tagline "The Center of Excellence for Protected Health Information". Below the logo is a navigation menu with the following items: QUICK LINKS, PROJECT OVERVIEW, WHO IS INVOLVED IN THE INITIATIVE? (with a dropdown arrow), CORE PROJECT STAFF, NATIONAL ADVISORY GROUP MEMBERS, HOW WILL WE KNOW WE ARE SUCCESSFUL?, REQUEST TA, RESOURCE CENTER, and CONTACT US. A prominent blue button labeled "Join Our Mailing List" with a "click here" link is also visible. The main content area features the "REQUEST TA" form, which includes a heading "REQUEST TA" and a sub-heading "Please use the form to request Technical Assistance." The form fields are: Name (text input), Role/Job Title (text input), Organization Name (text input), Organization Type (dropdown menu with "Select a value" as the current selection), Affiliation (dropdown menu with "None" as the current selection), State/Territory (dropdown menu with "None" as the current selection), Zip Code (text input), Contact Phone Number (text input), Email (text input with an asterisk indicating it is required), and Your Question (a large text area). At the bottom of the form, there is a question "Is your question urgent?" with radio button options for "No" and "Yes". A disclaimer section is located at the bottom left of the form area, stating: "Resources, training, technical assistance, and any other information provided through the CoE for PHI do not constitute legal advice. For legal advice, including legal advice on other applicable state and federal laws, please seek out local counsel."

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